



ORIGINAL

Federal Communications Commission
Washington, D.C. 20554

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96-198*

SEP 10 1998

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IN REPLY REFER TO:
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SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
DEPT. OF THE SECRETARY

The Honorable Tom Campbell
U.S. House of Representatives
1442 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Campbell:

This is in response to your letter on behalf of your constituent, Dana Mulvany, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

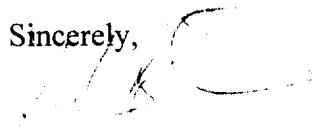
The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including the issue of concern to your constituent, the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Phythyon", is written over the word "Sincerely,".

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

TOM CAMPBELL
15TH DISTRICT, CALIFORNIA

COMMITTEE ON BANKING
AND FINANCIAL SERVICES

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see 255*

*WTB
handicap*

Congress of the United States
House of Representatives

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July 29, 1998


Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Chairman Kennard:

I am writing to you about a request from a California Constituents regarding the FCC's interpretation of section 255 of the 1996 Telecommunications Act which covers information services available to the public. The constituent requests some clarification as to whether it should cover these services.

Any information you could provide about this particular request would be appreciated. Please contact Charlie DeWitt in my office (225-2631) if you need any additional information. Thank you for your time and consideration.

Sincerely,


Tom Campbell
Member of Congress

cc: Commissioner Harold Furchtgott-Roth
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani

Campbell, Tom

From: Dana Mulvany[SMTP:dmulvany@usa.net]
Sent: Friday, July 10, 1998 5:10 PM
To: Campbell, Tom
Subject: Request for Response to FCC NPRM

CD

Dana Mulvany, MSW, LCSW

350 Budd Avenue, #A1
Campbell CA 95008-4021
dmulvany@usa.net

July 10, 1998

The Honorable Tom Campbell
U.S. House of Representatives
Washington, DC. 20515

RE: Request for Response to FCC NPRM on Section 255 of the 1996
Telecommunications Act, WT Docket No. 96-198

Dear Representative Campbell,

I ask for your assistance in communicating to the FCC that Congress did intend Section 255 of the 1996 Telecommunications Act to cover all aspects of telephone communication services and equipment, including automated voice response systems and other "information services" available to the public.

"In Section 255, Congress set forth a broad but practical mandate: manufacturers and service providers must ensure that their telecommunications equipment and services are accessible to those with disabilities, to the extent that it is readily achievable to do so." (FCC NPRM 98-55, page 5)

To the detriment of the nation, the FCC has excluded information services from coverage by Section 255, interpreting the term telecommunications far too narrowly in this context, and not as a generic term in its NPRM:

"42. Many services are considered telecommunications services and, therefore, are clearly subject to the requirements of Section 255. We recognize, however, that there are some important and widely used services, such as voice mail and electronic mail, which under our interpretation fall outside the scope of Section 255 because they are considered information services. Given the broad objectives Congress sought to accomplish by its enactment of Section 255, we seek comment on whether Congress intended Section 255 to apply to a broader range of services."

Currently, millions of people are unable to navigate voice menu systems, which are utilized by virtually all large and medium-sized companies and organizations, and most other entities. The majority of the time, profoundly and severely hard of hearing people are completely unable to access information which others take for granted (utilizing telecommunications relay services is useless due to the failure to design automated voice systems to accept a delay in communication). These "information systems" are not a luxury to the person confronted with them; they are a necessity for the public to be able to navigate in order to complete their calls and to get the

information they need. The FCC seems to be under the mistaken impression that information services are optional and not an essential aspect of telecommunications to which we all need access.

For example, many manufacturers provide technical support about products only through the telephone, and use an automated voice response system which requires the navigation of several layers before ever connecting to a human being. Their deaf and severely hard of hearing customers are unable to access technical support due to the system timing out before the relay service is able to convey all the information.

We as a nation need Section 255 to cover information services. Our present lack of access to telephone communication creates real anguish for far too many people; it affects the quality of life, wastes incredible amounts of time, and will do so for years to come unless Congress corrects the FCC's interpretation. Any of us could become deaf at any time due to a fluke accident; suddenly, you yourself could be deprived of access not because of necessity, but a design failure.

Designers of equipment and services for automated voice response systems would only have to make them accessible if it was readily achievable to do; as it stands now, however, many people with disabilities would continue to be excluded from the bulk of our nation's exchange of information.

Please ensure that our future will not be diminished due to the FCC's overly restrictive interpretation.

I would appreciate very much your assurance that you will follow up on this matter with the Chairman of the FCC, William E. Kennard. Please call or fax me at (408) 379-6065, email me at dmulvany@usa.net, or mail a letter to me at the above address.

Thank you for your attention to this serious matter.

Sincerely,

Dana Mulvany, MSW, LCSW
dmulvany@usa.net
dmulvany@ricochet.net